



Menge, Torsten. "Discriminating Borders: Nationality, Racial Ordering, and the Right to Exclude." *Genealogy+Critique* 9, no. 1 (2023): 1–24. DOI: <https://doi.org/10.16995/gc.9250>



Open Library of Humanities

Discriminating Borders: Nationality, Racial Ordering, and the Right to Exclude

Torsten Menge, Liberal Arts, Northwestern University in Qatar, QA, torsten.menge@northwestern.edu

State borders allocate access to basic goods, opportunities, rights, and protections along lines of nationality, race, and gender. However, the discriminatory effects of state borders rarely appear as an issue in the self-understanding of liberal-democratic societies and their political theorizing. In this paper, I explore how the category of nationality has been and continues to be used to exclude people who have been negatively racialized by European colonialism. I draw on a number of studies that reconstruct the colonial history of states' claims to authority over people's movements and over the composition of their populations. The idea of territorial nationalities allowed nation-states, in particular those emerging from the settler colonies and metropolises of European empires, to continue practices of racial ordering without using explicit racial categories. With the help of these studies, I criticize liberal nationalists such as David Miller for appealing to the value of national identities to support a right of states to exclude would-be immigrants. I suggest that using genealogical and phenomenological methods allows us to undermine the default authority that is often accorded to the category of nationality.



Introduction: Discrimination at the Border

While the idea of equal treatment under the law is essential to the self-conception of democratic societies, state borders are a crucial exception. Borders sort people into those who may enter a state from those who may not (Mau 2023). Arguably, the borders of self-avowedly liberal-democratic states also discriminate in a normatively prejudicial sense, allocating access to basic goods, opportunities, rights, and protections on the basis of race as well as gender, class, nationality, sexual origination, and disability status. For example, countries in the Global North use visa regimes that effectively immobilize people from the Global South (Achieme 2022). With virtually no legal pathways to migration, many people face deadly border regimes when they aim to move to Europe or the United States. While these regimes do not usually rely on explicit racial categories, they reflect the legacy of colonialism and its associated racial hierarchies.

The recent response to refugees from Ukraine illustrates this legacy. Countries in the European Union have welcomed more than five million Ukrainian refugees since the Russian invasion began. But United Nations High Commissioner for Refugees, Filippo Grandi, has pointed out that "some Black and Brown people fleeing Ukraine—and other wars and conflicts around the world—have not received the same treatment as Ukrainian refugees" (UN News 2022). While many refugees were able to easily pass the EU's borders, Black refugees, Sinti and Roma, and others not perceived to be "properly European" have been questioned, prevented from passing, and/or taken into custody (Gabbe 2022). Moreover, on Poland's Belarusian border, refugees fleeing conflicts in the Middle East and other parts of the world continue to face pushbacks and detention (Amnesty International 2022). For the first time, the EU activated the so-called Temporary Protection Directive, which allows Ukrainian refugees to obtain a residence permit and relatively quick access to social welfare, health insurance, and education without a lengthy bureaucratic process (Liboreiro and Murray 2022). But the directive was not applied to fleeing students and workers without permanent legal status in Ukraine (European Commission 2022). Nor was the directive, which was passed in 2001, ever activated in response to mass displacement from Tunisia and Libya following the Arab Spring or for Syrians fleeing the civil war in 2015 (İneli Ciğer 2022).

At state borders, differential treatment is usually not recognized as discriminatory in the normatively prejudicial sense—not in domestic or international law, not in public discourse, and not in liberal political theory. While international human rights law recognizes a general right to non-discrimination, challenges to immigration restrictions based on non-discrimination arguments rarely succeed because international courts show a high degree of deference to state authority when it comes to matters of migration (Ó Cinnéide 2021, 363). International treaties expressly recognize that states are entitled to treat non-nationals differently from their own nationals even when it comes

to the enjoyment of fundamental rights. For example, the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) does not apply to "distinctions, exclusions, restrictions or preferences made by a State Party [...] between citizens and non-citizens" and to "any legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality" (Article 1(2)).¹ Modern states have long claimed that the entitlement to control migration across their borders and to treat people differently on the basis of citizenship, nationality, and immigration status is central to their sovereignty.

Many political philosophers and theorists have advanced arguments in support of this self-understanding of modern states and articulated justifications for a right of states to exclude would-be immigrants. Generally, these arguments appeal to a right to collective self-determination.² At the same time, their authors usually condemn discrimination on the basis of race, ethnicity, or religion, although it has been questioned whether this is consistent with appeals to self-determination (Fine 2016, 134–5). In any case, this condemnation does not capture indirect forms of discrimination, when facially neutral criteria have a disproportionate impact on groups identified in terms of race, ethnicity, or religion. For example, the fact that citizens from African countries cannot enter Germany without a visa, while citizens of more than 60 other non-EU countries can, disproportionately impacts a racialized group even though the policy does not explicitly appeal to race or ethnicity.³ While the category of race is in many ways central to the modern regulation of immigration, this finds little reflection in philosophical discussions of immigration (see Jaggar 2020, 91).

In this paper, I explore why the discriminatory role of state borders rarely appears as an issue in the self-understanding of liberal-democratic societies and in their political theorizing. I focus on the category of nationality, which is central to the legal regulation of migration. Liberal nationalists have defended appeals to nationality most explicitly, emphasizing the political value of national identities and their compatibility with liberal principles.⁴ Engaging with David Miller's account, I challenge the moral authority usually accorded to the principle of nationality. I draw on studies by Nadine El-Enany, Radhika Mongia, and Nandita Sharma, which situate states' claims to authority over people's movements and over the compositions of their population within the history

¹ See Achiume (2022, 489–90) for further discussion.

² See Fine 2013 for a helpful overview.

³ See information available on the website of the German Federal Foreign Office (accessed July 18, 2020), <https://www.auswaertiges-amt.de/en/visa-service/-/231148>.

⁴ Prominent defenses of liberal nationalism include Margalit and Raz (1990), Tamir (1993), Miller (1995, 2016), Canovan (1996), and Moore (2001). I focus on David Miller's contributions because he has articulated in depth a liberal nationalist position on immigration.

and ongoing effects of European colonialism and imperialism. The idea of territorially based nationalities allowed postcolonial states to continue practices of racial ordering without using explicit racial categories. Attending to this genealogy undermines the default authority often accorded to nationality. The paper shows how phenomenological and genealogical methods can help us make salient features of our practices that are otherwise unacknowledged and make them an object for explicit normative reflection.⁵

Whiteness as an Orientation and the Invisibility of Race

To understand how a central aspect of state borders could become invisible or unremarkable, we can draw on Sara Ahmed's phenomenological analysis of whiteness. Ahmed thinks about whiteness as an "orientation," a habitual way of being situated in the world. Because it orients everyday actions, whiteness is a "category of experience that disappears as a category through experience" (Ahmed 2007, 150). This phenomenological insight can help us understand how race—as an orientation—can disappear from view.

Ahmed holds that we are habitually orientated in the world by our tasks and projects. Orientations are ways in which we "take up space" and in which our bodies are habitually directed towards objects. Our ability to effectively do things depends on how the world is structured as a space for action. What is "in reach" for us depends on our ability to access, manipulate, and use what is in our vicinity. A desk allows a writer to work and orients him both spatially and in terms of his self-understanding: For a writer, "it is from here that the world unfolds" (Ahmed 2007, 51).⁶ But Ahmed challenges the assumption made by classical phenomenologists such as Edmund Husserl and Maurice Merleau-Ponty that there is a universal starting point for any orientation (Ward 2020, 100–3). The existential closeness of a thing, its ability to orient us, has a social history. Something can be "out of reach" for someone because of their social identity, making it difficult to engage in one's tasks and projects. The writer Adrienne Rich, Ahmed suggests as an example, is unable to orient herself using her work because expectations of domesticity and motherhood create a distance between her and the desk. When her children pull her away from her writing, "giving attention to the objects of writing, facing those objects, becomes impossible" (Ahmed 2006, 32).

Dominant orientations such as whiteness, Ahmed argues, come into view from a *dis-oriented* perspective: "If we began instead with disorientation, [...] then the descriptions

⁵ This paper is based on a contribution to the international symposium *Confronting Discrimination: Phenomenological and Genealogical Perspectives* (University of Innsbruck, 2021), which explored how phenomenological and genealogical perspectives can help us understand experiences and structures of discrimination.

⁶ See Ward (2020) for a helpful discussion.

we offer will be quite different" (Ahmed 2007, 160). For example, Frantz Fanon has emphasized that the ability to navigate the world with ease as we go about our everyday activities can be undermined by social expectations that affect how our body is situated in the world. To be Black, Fanon argues, is to live in a world in which one is not properly situated to "reach" the objects necessary for acting and realizing one's intentions. In Ahmed's words: "To be not white is to be not extended by the spaces you inhabit" (Ahmed 2007, 163). From this disoriented perspective, it becomes apparent that White bodies feel at home in the world because they inhabit a social world in which the objects necessary to pursue their tasks and projects are in reach. Whiteness in this sense has a worldly character; the world becomes White by being organized in this way. In the context of migration, people perceived to be White and at home in a world organized into nation-states will find it easier to move or extend their bodies across state borders. Moreover, the world is structured in ways that put goods and services across borders in their reach through global production chains and the employment of migrant workers.

Ahmed's phenomenology draws our attention to how race is produced and comes to structure the world we inhabit. White spaces and bodies are not static; they take shape through routine actions. Bodies acquire a kind of "second nature" that allows them to act in a specific space. In turn, spaces are shaped by being oriented around some bodies more than others. As an example, Ahmed describes attending a conference and noticing "four black feminists arrive" (Ahmed 2007, 157). Noticing such an arrival, she argues, makes visible that this space was oriented around White bodies. This orientation is the result of past decisions about how to allocate resources and whom to admit to the space. Orientations and the "familiar world" they create have a social and political history. Colonialism, Ahmed argues, "has made the world 'white', ready for certain kinds of bodies, putting certain objects within their reach" (Ahmed 2007, 154). In this world, race has become a "social as well as bodily given," something which we "receive from others as an inheritance" (Ahmed 2007, 154). We may be unaware of these inheritances, but they are manifest in how our bodies can appear, move, and act within the world.

Ahmed enjoins us to start from experiences of disorientation because "whiteness disappears as a category through experience" (Ahmed 2007, 150). The habitual body does not usually get in the way of an action but "trails behind" (Ahmed 2007, 158). It does not, in other words, pose an obstacle to the action or is stressed by whatever the action encounters or engages (156). In this sense, White bodies, which comfortably inhabit the world in which they act, "trail behind" their actions. In other words, for those who inhabit it, whiteness usually goes unnoticed. Ahmed's "standpoint phenomenology" (Ward 2020) allows us to understand how racial discrimination can be a central effect of state borders and yet disappear from view, at least from a dominant

perspective. Starting from experiences of disorientation can serve a pedagogical purpose because it turns our attention to how the world is structured and to the social and political histories of our orientations. Taking my cue from this point, I will consider a number of genealogical studies of the category of nationality. The studies start from the experiences of those who cannot comfortably move and act within a world of "nationalities" and nation-states, and they show that the category has shaped our world in ways that reproduce colonial practices of racial ordering. Telling such genealogies not only produces a disorienting experience but undermines the default authority of an important political category. Before I turn to these genealogies, I discuss the political theory of liberal nationalism to elaborate how the value and authority of this category is commonly understood.

Liberal Nationalism on National Belonging and its Histories

In international law, the nation-state is treated as the primary vehicle for the collective self-determination of political communities. Within this framework, the right of nation-states to exclude foreigners is a necessary means to protect national self-determination. This basic assumption is mirrored by the political theory of liberal nationalism, which justifies the differential treatment of people who are designated as "political strangers" by emphasizing the importance of protecting national identities. While some strangers may warrant discretionary admission and inclusion because of exceptional circumstances, the general presumption is that those asking for admission are "strangers," that is, they do not belong to the community they are seeking to enter (Achieme, 2022). In the following, I engage with David Miller's account of national identity to consider how liberal nationalism can come to overlook discrimination at the border.

Nationality can be understood, in Ahmed's words, as an orientation, that is, as a starting point from which the world unfolds. One's belonging to a national community determines which rights and obligations, resources, protections, opportunities, etc. are "in reach." As Nandita Sharma points out, one's nationality "is the single most consequential factor in predicting how well and for how long one lives" (Sharma 2020, 32). Liberal nationalists agree with the idea that national identity is a crucial orientation. As David Miller puts it, "a national identity helps to locate us in the world; it must tell us who we are, where we have come from, what we have done" (Miller 1995, 175). But Ahmed's standpoint phenomenology encourages us to explore how this orientation enables and restricts human action by looking at the history that "trails behind" it. She urges us to start from experiences of disorientation, that is, experiences by people who are treated as outsiders, strangers, and "arrivals." What can we see and learn from such perspectives about a state's claims to control immigration and exclude would-be immigrants?

Miller has defended a qualified right to exclude by arguing that the preservation of a distinctive national identity is a central and legitimate role of states. For a nation to have collective control over their national culture is of significant value because this gives members some control over what happens in their community and thus allows them to make long-term plans (Miller 2016, 63). Such planning, Miller argues, is likely to be undermined if the changing composition of a community leads to reversing basic political decisions. Thus, members of a nation collectively have an interest to control membership by regulating immigration. This interest may sometimes be outweighed by the interests of migrants. For example, Miller holds that states have some duties towards refugees, and he rejects the use of racial, ethnic, or cultural criteria for selecting immigrants. Nonetheless, the collective self-determination of national political communities carries significant moral weight and gives states the right to decide how many "strangers" to admit or to close their borders to them altogether.

Although Miller holds that national identity plays a central role in people's individual and collective lives, he has little to say about how we determine whether someone belongs to a particular national community. In general, liberal nationalists see nations as historical and ethical communities (Miller 1995, Amighetti and Nuti 2016, 4–5). Co-nationals identify with their ancestors and their actions throughout history and thereby create a connection with the nation's past and among one another. Shaped by this history, nations consist of "people who share a broadly similar set of cultural values and a sense of belonging to a particular place" and "who think of themselves as a distinct community of people with historical roots" (Miller 2016, 26). This history connects a community to a particular "homeland" and explains why they and not others should govern life in this particular place (Miller 2016, 29). Through a recognition of their history, nations also become communities of obligation: By identifying with their ancestors, co-nationals recognize that they have obligations towards their descendants. But while all of this describes the relationships between co-nationals, it does not help us determine who should be recognized as belonging to a particular nation.

In fact, national belonging is often highly contested. People may see themselves as belonging to a national community or as having attachments to a "homeland" while not being recognized as such by others. Indeed, appeals to nationality and homelands are often used to exclude people who are perceived as "out of place" (Sharma 2020, 205–267). Consider this reflection by Kwame Anthony Appiah:

In many European countries there is a large white group that thinks of itself as the natural population of the nation. [...] Now, I have an English mother, one of whose ancestors came from Normandy in the twelfth century. My Ghanaian father, though,

means that, for many people in England, I can't be true-born English now or ever, even though, like twenty generations of my maternal grandfather's line of ancestors, I was born in England. (Appiah 2020, 271–2)

Appiah may identify as "true-born English," but others do not recognize him as such. Miller may not endorse this refusal of recognition, but it is unclear on what basis he could reject it. On his account, the shape and character of a national community—with implications for who counts as a member—is negotiated among its members. Miller emphasizes that national identities are historically fluid and can change over time (Miller 1995, 39, 45). But who counts as part of the national community, such that their view is taken into account when members negotiate their shared identity?⁷ Ahmed's standpoint phenomenology allows us to make sense of the fact that Miller does not seriously consider this question. For those of us who are oriented in the world by our nationality, it provides an orientation precisely because it is not constantly questioned by others. This allows us to align with persons and things around us in ways that put our goals in reach. We may never experience how a world shaped by a principle of nationality may "disorient" others. In contrast, people whose nationality is not recognized by those around them are in a better position to see its contested character and the consequences of those contestations. Starting from such experiences of "disorientation" thus provides us with a fuller picture to assess liberal nationalism.

Given that Miller's account characterizes nations as historical communities, it would seem that the account should be able to easily identify who belongs. To understand the "boundaries" of a nation we need to look at how its identity has been shaped in the past. But Miller rarely discusses the concrete histories of particular nationalities. Where he does, for example in his discussion of British national identity, his account is overly irenic. He holds that this identity originally emerged in the eighteenth and early nineteenth centuries from "competition between a number of groups—traders—men, women, the Welsh and Scots, as well as the English aristocracy—each seeking to establish themselves as citizens, and offering contrasting images of British identity to support their claims" (Miller 1995, 40). Such a national identity is "authentic" and thus, I assume, has a claim to some legitimacy if "the process involves inputs from all sections of the community" (Miller 1995, 40). Miller arrives at this implicit characterization of British identity while neglecting the legacy of the British Empire, which was

⁷ As discussions about the so-called "boundary problem" show, this is a problem that all accounts of a bounded democratic demos face (see, for example, Whelan 1983, Abizadeh 2008, and Song 2012). I mention it here because it is often assumed that the boundary problem does not arise for cultural-nationalist positions such as Miller's which understand "nation" as pre-political category. But this is only plausible if one overlooks the usually contested nature of national belonging.

hardly an inclusive or peaceful institution (Miller 1995, 167). He emphasizes that there are distinct but equally legitimate ways of being British:

Right-wing would-be defenders of the nation who stress the homogeneity of the British people proper (in contrast to the immigrant communities) overlook the deep-seated pluralism that has always been a characteristic of Britain as a nation. Why should it be less legitimate to be Chinese and British or Jamaican and British than to be Welsh and British? (Miller 1995, 174)

But he does not pause to consider the imperial history behind people being, for example, "Jamaican and British." Nor does he consider how "British" came to be a national rather than an imperial category. Because Miller thinks of nationality as a pre-political category (Miller 1995, 129), he does not consider which political projects have shaped it. A look at the imperial history of "Britishness" from the perspectives of those whose claims to being British have been contested will provide a very different picture, one that, I submit, undermines the legitimacy of appeals to a British national identity.

The Postcolonial Making of British Nationality

In her book *(B)ordering Britain: Law, Race, and Empire*, Nadine El-Enany (2020) takes a closer look at the emergence of British national identity in the twentieth century by tracing the development of Britain's immigration law as it transitioned from an empire to a nation-state. Her analysis shows that a national understanding of "Britishness" is a relatively recent phenomenon. As a legal status that applies only to the United Kingdom, British citizenship did not exist until 1981. In contrast to Miller's irenic history of British national identity, El-Enany suggests that this identity was and continues to be used to violently prevent people who were colonized and negatively racialized by the British Empire to access the colonial wealth amassed on the British mainland. In other words, the notion of a territorially bounded British nation is the result of a political project to protect the spoils of colonialism.

Genealogies of this kind explore the contingent historical trajectories of concepts and categories that are important to our lives. They look at how concepts were used, by whom, for what purpose, in what social and institutional contexts, and with what implications and effects. By doing that, they challenge an abstract and static understanding of these concepts and their normative authority. For example, showing that the category of national identity played a role in unjust political projects—or even stronger, that it emerged to play this role—discloses a very different perspective from the one that liberal nationalists appeal to. Moreover, genealogies aim to "de-naturalize" concepts. For

example, instead of assuming that "national identity" is an essential orientation for political life, genealogies look at the specific political projects for which the category was used and raise the question whether it deserves our continued allegiance.

El-Enany argues that until the 1960s, "British" was an imperial category which was defined capaciously. The British Nationality and Status of Aliens Act 1914, passed at a time when Britain was an established empire, defined the category of a *British subject* broadly to maximize the reach of British colonial rule (El-Enany 2020, 75). Subjecthood was acquired by birth within the Commonwealth or by descent within one generation in the legitimate male line. Beyond formal equality of legal status, the rights that came with subjecthood depended on, among other things, race, gender, and one's location within the empire. Colonial authorities were not precluded "from treating differently different classes of British subjects" (El-Enany 2020, 75). In practice, El-Enany argues, the broad definition of subjecthood was designed primarily to allow British settlers to move and settle throughout the Commonwealth. Britishness as a legal and political identity reflected Britain's imperial ambitions and realities. While it formally promised equality under the law, it was compatible with the use of racial classifications as a tool for imperial rule.

The British Nationality Act 1948 created the status of *citizenship of the United Kingdom and Colonies*, which included an unqualified right to enter and remain in Britain. This status applied to the inhabitants of mainland Britain, independent Commonwealth countries, and British colonies. The law was an attempt to hold together what remained of the British Empire and the Commonwealth by maintaining the migratory, political, and economic relationships with Britain's settler colonies (El-Enany 2020, 77–87). Focused on freedom of movement for White British settlers, the law's initiators did not seriously anticipate that it would also allow negatively racialized colony and Commonwealth citizens to freely travel to and live in Britain (El-Enany 2020, 80–1). The provisions facilitated the arrival of around five hundred thousand negatively racialized people from the colonies and the Commonwealth between 1948 and 1962 (often referred to as the "Windrush generation"), which took the British government by surprise. Despite racist hostility towards the arrivals and official neglect of their welfare, the government initially resisted the introduction of formal immigration controls because it feared that openly racist controls that distinguished between White and negatively racialized subjects would jeopardize the stability of the Commonwealth (El-Enany 2020, 85).

But with the empire's further decline, the emphasis on "imperial unity" was discarded and the government started to restrict the immigration of negatively racialized colony and Commonwealth citizens (El-Enany 2020, 95–121). The Commonwealth Immigrants Act 1962 limited the unqualified right of British subjects to enter mainland

Britain to those who held passports issued directly by the British government (and Irish passports issued by the Irish government). Others were allowed to enter only if they were able to obtain a labor voucher. The Commonwealth Immigrants Acts 1968 further limited that right to those "with an existing ancestral link with the country" (El-Enany 2020, 109). Most immediately, this step barred two hundred thousand East African Asians (people of South-Asian descent living in Uganda and Kenya) with British passports from entry to Britain and effectively rendered them stateless. By connecting the right to enter and stay in mainland Britain to an "ancestral link," the law created a new, narrow category of Britishness. The Immigration Act 1971 furthered this development by introducing the category of those with a "patrial" connection, which applied to people born or with a parent born in Britain, that is, people who were most likely to be White. The patriality concept was created to allow many citizens of Australia, Canada, and New Zealand to retain the right to enter Britain while excluding negatively racialized colony and Commonwealth citizens (El-Enany 2020, 119).⁸ The project to define a territorially bounded notion of British identity was at the same time a racial project. The 1971 Act, El-Enany argues, "made whiteness the primary basis for belonging in Britain" (El-Enany 2020, 119).

These changes were consolidated in the British Nationality Act 1981, which re-articulated British citizenship (El-Enany 2020, 125–132). The law abolished the status of a citizen of the United Kingdom and Colonies and linked British citizenship to a right of abode in Britain, which had previously been granted to those with patrial connection to Britain. Under the Act, a person born in Britain is a British citizen only if at the time of birth one of her parents is a British citizen or has "settled status" in Britain. El-Enany points out that this served not only as a restriction for future immigration but retroactively declared many negatively racialized people who had already taken up residence in Britain as "political strangers" who had no fundamental right to stay. The law removed the automatic acquisition of citizenship for those born in Britain and thus excluded many people who already lived in Britain and their children from the polity (El-Enany 2020, 127). It completed the project of drawing a territorial and demographic border around mainland Britain.

The central insight of El-Enany's analysis is that the creation of a national British identity in the twentieth century was an ongoing colonial project. British immigration law in the second half of the twentieth century construed people colonized by the British Empire as not entitled to access the spoils of colonialism in the forms of "infrastructure,

⁸ The proposed law entitled those with a grandparent born in Britain to a right of abode. This clause was defeated in Parliament, and the right was limited to those with a parent born in Britain. But the grandparent connection was reinstated through the government's 1973 immigration rules and still exists today as part of the "UK ancestry route" (El-Enany 2020, 121).

health, wealth, security, opportunity and futures" (El-Enany 2020, 74). It made it increasingly difficult for many former subjects to enter Britain and denied legal access to resources and citizenship for many of those already living in Britain. Sara Amighetti and Alasia Nuti (2016) and E. Tendayi Achiume (2019) have previously argued that formerly colonized people should be understood as members of a polity that comprises both former colonizers and the formerly colonized. This would seem to follow from the liberal-nationalist understanding of nations as historical communities bound together by a common political history. El-Enany builds on this argument to show that the legal definition of a territorially defined British nationality was an active attempt to leave behind Britain's imperial legacy without giving up its spoils. It redefined what it is to be British in a way that disregards the political relationships created by the British Empire. Miller's discussion of British national identity, which suggests that it came about in a relatively peaceful and inclusive process in the eighteenth century, similarly neglects this legacy.

Miller has argued that nations have a responsibility to redress injustices they committed in the past (Miller 2007, 151–9). For example, a nation may have a duty to grant asylum to refugees if it previously imposed harms that turned people into refugees (Miller 2016, 114). But at the same time, Miller treats national identity as something that can be understood independently from the nation's involvement in colonialism. The British nation may owe reparations for colonialism, but Miller does not consider the implications of its imperial legacy for who counts as British. El-Enany shows us that twentieth-century British national identity is inseparable from Britain's imperial legacy. Imperial politics first required an expansive notion of Britishness to maximize the reach of British rule. As the empire declined, a territorially bounded British nationality was the response to the unwanted mobility of former colonial subjects. Moreover, these past events shaped the legal categories that now determine who counts as British in the eyes of the law. Even if Miller is right that the British Empire did not play a significant role in the self-understanding of the majority of the mainland's population (Miller 1995, 168), legal categories that were defined by imperial politics shaped this self-understanding indirectly. A narrow notion of Britishness excluded and continues to exclude most of Britain's formerly colonized subjects from participating in "open processes of debate and discussion" (Miller 1995, 39) about a postcolonial British identity. We cannot assume that the emergence of national identity is a bottom-up process with "input from all sections of the community" (Miller 1995, 40) but need to pay attention to the role of states in creating, often violently, new categories of people.

A second important insight of El-Enany's analysis is that British immigration law reproduced racialized categories even though it was formulated in facially race-neutral terms. One of the central motivations behind the Commonwealth Immigrants Acts of 1962 and 1968 was to prevent immigration of negatively racialized people from

colonies or Commonwealth countries while continuing to allow mobility for settlers of British descent. Moreover, when Britain joined the European Economic Community (EEC) in 1973, this granted reciprocal rights of free movement for nationals of EU member states and those with a right of abode in Britain but excluded—in line with the Immigration Act 1971—those without "close connection to Britain," including many Commonwealth citizens living in Britain (El-Enany 2020, 193–4). Twentieth-century British immigration law sorted people into groups with radically differently rights, opportunities, and vulnerabilities. Some were granted access to territory, resources, and wealth, while others—primarily those negatively racialized by colonialism—were put at risk for violence, abandonment, and premature death.⁹ By narrowing the group of people who were deemed to belong to a British nation, the law allowed for racialized exclusion without any explicit mention of race.

This legal regime, El-Enany points out, continued the colonial practice of racial ordering (El-Enany 2020, 24–7). European colonial projects made use of race as a category for knowing and ordering civilizations they encountered, conquered, and eliminated. British colonial governments used racialized legal categories to control the movement of negatively racialized populations within, into, and out of colonized territories without limiting the mobility of European settlers (El-Enany 2020, 43–4). These racial categories were not static; they were malleable and shifted depending on the political circumstances and purposes. Colonial governments in the British Empire often avoided explicit racial discrimination that could undermine assertions of equality and benevolent rule. Based on these legal experiments, British immigration law in the twentieth century used national categories rather than appealing explicitly to race. But nonetheless, it effectively constituted British national identity as White and made it more or less impermeable to Britain's formerly colonized subjects. This insight challenges attempts to distance appeals to national self-determination from racial and ethnic discrimination at the border (Fine 2016). As I will further explore in the following section, the category of nationality played a central role in shaping modern nations as racialized political communities. By appealing to the value of protecting national identity without considering this legacy, liberal nationalists run the danger of perpetuating it.

Nationality and the Creation of Racialized Political Communities

The emergence of a national British identity is not an isolated case but can be situated within a broader history of the modern nation-state. Radhika Mongia and Nandita Sharma have shown how the idea of territorially bounded nationalities was used globally

⁹ Ruth W. Gilmore defines racism as "the state-sanctioned and/or extralegal production and exploitation of group-differentiated vulnerability to premature death" (Gilmore 2007, 28).

to manage colonial and postcolonial migrations, perpetuate imperial hierarchies, and create and maintain racialized political communities. Genealogies are not only historicized conceptual analyses; because they investigate concepts and categories that are central to how we understand ourselves, they contribute to what Foucault has called a "historical ontology of ourselves" (Foucault 1997, 315). The category of nationality is deeply embedded in our basic political structures, and when we navigate the world as citizens of a nation-state, we treat this category by default as authoritative. Nationality matters to us because being citizens of nation-states is part of who we are (with only a few exceptions). Recognizing that our national communities were shaped through colonial projects of racial ordering creates a distance between us and our national identity, and it raises the question whether we ought to treat this identity as authoritative. Attending to these genealogies can thus have a critical effect.

While control over immigration is often considered to be a central aspect of state sovereignty, until the nineteenth century most states did not generally regulate entry into their territories. Imperial states cared about facilitating mobility to increase their access to labor power (Mongia 2018, 2; Sharma 2020, 4). When the nation-states that emerged from European imperial states began to impose immigration restrictions, they did so in response to racial anxieties of White settler populations about the mobility of Asian and Black people. Restrictive immigration and citizenship practices were used to constitute racialized political communities. By the beginning of the twentieth century, immigration controls had come to be understood as an essential aspect of national self-determination. For example, at the 1918 Imperial War Conference, the governments of the self-governing entities of the British Empire declared that "[i]t is an inherent function of the Governments of the several communities of the British Commonwealth, including India, that each should enjoy complete control of the composition of its own population by means of restriction on immigration from any of the other communities" (Imperial War Conference, quoted in Atkinson 2016, 165).

Mongia (2018) has shown how the concept of a territorially bounded nationality came to stand in for more direct appeals to race. At the Imperial War Conference, the South African general Jan Smuts reminded his colleagues about the stakes of a policy that allowed White settler-colonies to control the composition of their populations: "We are a white minority on a black continent and the settlers in South Africa have for many years been actuated by the fear that to open the door too widely to another non-white race would make the position of the few whites in South African very dangerous indeed" (Smuts, quoted in Atkinson 2016, 164). While the official imperial policy was on its face race-neutral, it was advanced by the empire's settler colonies to protect their racially defined communities. But such frank admissions were rare, because imperial

officials feared that outrage over explicitly racist policies would undermine the unity of the British Empire. Officially, all British subjects enjoyed legal equality throughout the empire and their mobility within it could not be arbitrarily restricted.

Exclusion came to be framed instead in terms of the protection of territorially defined nationalities. One episode that illustrates this framing led to the exclusion of Indian migrants from Canada and the introduction of passports as national identity documents (Mongia 2018, 112–140). Anxiety over Indian migration and claims about the supposed cultural and climatic incompatibility of Indians had begun to surface in Canada at the beginning of the twentieth century. But many of the Indians who moved to Canada were not under a labor contract and thus the government of (British) India could not limit their movement.¹⁰ Likewise, the government of Canada could not restrict the mobility of non-indentured Indians because this would have meant openly discriminating against some British subjects. In 1914, after a contentious ten-year debate, the Canadian government introduced a passport requirement for any Indian leaving India. While the restriction was evidently targeted at non-White immigrants, it was advanced through seemingly race-neutral arguments. Frank Oliver, Minister of the Interior until 1911, voiced his support for this policy in the following terms:

The immigration law as it stands is a declaration on the part of this country that Canada is mistress of her own house and takes the authority and responsibility of deciding who shall be admitted to citizenship and the privileges and rights of citizenship within her borders [...]. This is not a labour question; it is not a racial question; it is a question of national dominance and national existence. (Oliver, quoted in Mongia 2018, 133)

In the end, the imperial government granted reciprocal rights for the governments of White settler colonies as well as the government of India to exclude labor migrants, although few Australians, New Zealanders, or Canadians sought to settle in India. The idea of a world composed of distinct and seemingly equivalent nationalities allowed the settler states of the British Empire to "effect racial exclusion without naming race" (Mongia 2018, 133). The category of national identity, assigned by the state and documented in a passport, would later also be used to restrict the movement of negatively racialized colony and Commonwealth citizens to Britain.

Nandita Sharma (2020) has documented how this nationalized understanding of belonging became central to all modern states. Virtually all states that emerged in the nineteenth and twentieth centuries used discourses of natural belonging, which

¹⁰ Restrictions applied to state-controlled indentured labor programs (see Mongia 2018, 2–10).

privileged people considered "of the place" while excluding those represented as "out of place." For example, White settlers in the United States and Canada reimagined themselves as "natives" who had to protect themselves and their territorial political community from racialized others. The US Chinese Exclusion Act of 1882 was the first law to restrict immigration based on nationality. Ultimately, all nation-states in the Americas imagined themselves as racialized communities, valorized Europeanness or Whiteness (with the exception of Haiti), and restricted immigration and citizenship accordingly. European imperial metropolises began to nationalize their sovereignty and political self-understanding in the second part of the twentieth century, as El-Enany's analysis shows. Globally—not only in North America and Europe—discourses of autochthony informed immigration restrictions as well as social exclusions, violent "population transfers," and genocides. Modern nations, Sharma reminds us, did not usually emerge from a peaceful and inclusive negotiation of shared traditions, values, and ways of life but through a massive, violent "reordering of people's relation to place, to states, and to one another" (Sharma 2020, 114). This reordering built on the colonial practice of racial ordering when it used the categories of territorially demarcated nationalities.¹¹ By explicating the connections between race and nationality that were made in political practice, El-Enany, Mongia, and Sharma show us that many political communities that now appeal to a principle of national self-determination were defined and created as racialized communities.

The idea that some people belong to a particular place—a "homeland"—while others are "out of place" is now central to the self-understanding and functioning of nation-states. Miller's liberal-nationalist account takes this territorial understanding of nationality for granted as a normative starting point. But it is not true for everyone that "a national identity helps to locate us in the world" (Miller 1995, 175)—at least not in ways that puts rights, resources, land, health etc. into their reach. It is not true, for example, for people who have been made stateless, whose nationality is not recognized by those around them, or whose nationality effectively immobilizes them. Controversies over who properly belongs can be found in most modern nation-states, often with severe consequences for those who are found not to belong. The genealogies discussed here help us make sense of this fact. Immigration controls and restrictive

¹¹ This paper focuses on the self-avowedly liberal-democratic countries of North America and Europe, following the focus of liberal nationalist discussions. But similar logics informed and structured the politics of postcolonial national liberation states as well. In the course of decolonization, most of these states enacted citizenship policies and immigration controls based on discourses of national belonging, often with the effect of violent expulsions, genocides, and nativist violence against those moving across nation-state borders or seen as "out of place" (see Sharma 2020, 163–85, 205–35). The persecution of Rohingya people by nationalists in Myanmar and the Hindutva rhetoric of "illegal" Muslim "migrants" in India are two examples for the ongoing operation of these ideas.

citizenship policies helped and continue to help nation-states create racialized political communities. The exclusion of territorial and demographic outsiders—rationalized as a central aspect of collective self-determination—has helped settler colonies and imperial metropolises to protect the wealth gained through colonial expropriation and exploitation. The idea of national self-determination has made it possible to continue colonial projects while at the same time obscuring the continuing racial discrimination involved in these projects.

This insight challenges the authoritative appeal to national identities. Miller defends liberal nationalism against forms of cosmopolitanism that, based on appeals to moral equality or human rights, reject differential treatment of nationals and non-nationals (Miller 1995, 49–80). We do not need to take a position in this abstract debate and should focus instead on the legitimacy of specific national projects. My national identity is not a fixed fact about myself but involves identification with a particular past and a commitment to bring about a particular future.¹² Identifying nationally helps to reproduce nationalities in one way or another. It is thus always appropriate to ask whether we should continue to treat a particular national identity as authoritative. To be fair, Miller does treat this as an open normative question. But because his account of nationality remains historically abstract, it does not allow us to reflect on the specific normative projects in which we involve ourselves, sometimes unwittingly, as we navigate the world with national identities. The genealogies told by El-Enany, Mongia, and Sharma make salient that many national identities emerged and continue to be used for political strategies aimed at maintaining racialized political communities and perpetuating the hierarchies created by European imperialism. Identities that play such a role lack the requisite authority to ground arguments for a right to exclude.¹³

While my discussion has focused on liberal nationalism, these genealogies also challenge liberal accounts that reject cultural nationalism yet defend the right of nation-states to control immigration. Sarah Song, for example, defines a people in terms of the shared participation in collective self-rule rather than in terms of national identity and defends a right to exclude based on the value of collective self-determination (Song 2019, 52–74). Because political accounts of peoplehood hold that a people usually emerges from participation in existing political institutions, they cannot disregard the actual history of nation-states (Song 2019, 57). Even if a state does not currently appeal

¹² See Lance and Tanesini (2000) for a helpful analysis of identity judgments.

¹³ We need to take the specific trajectories of different national identities seriously as we assess their moral authority. In this paper, I focus on the national projects of the former settler-colonies and metropolises of European empires. An assessment of anticolonial appeals to national identity might come to a more nuanced conclusion, but I cannot discuss this issue in the limits of this paper.

to race or ethnicity in its immigration and citizenship policies, the composition of its political community probably has been shaped by these criteria in the past. As a result, facially race-neutral policies are likely to continue to reproduce the community's exclusionary character and the global hierarchies of which it is a part. El-Enany's study makes this case for British immigration law. Similarly, in the United States, which has a history of explicitly white-supremacist immigration and citizenship policies, nationality continues to limit equal opportunity and free movement even after explicit restrictions based on national origin have been abolished (Munshi 2015, 281–6).¹⁴ Arguably, these restrictions continue to put the wealth gained through past imperial domination and exploitation out of reach for the vast majority of those whose lives have been shaped by these projects, filling the role of more explicit practices of racial ordering. We may appreciate the value of collective self-determination in general and yet question the authority of specific demographic boundaries that have come about in this way.

It might be objected that *present* appeals to nationality or to the self-determination of a nation-state's political community could be acceptable even if, in the past, they served unjust purposes. The meaning of a national identity may have changed, and the exclusion of non-nationals may now serve purposes other than the maintenance of racialized political communities and the protection of unjust gains from historical injustices. It is true, of course, that the meaning of political identities and their role in political projects can change over time. But in light of the evidence discussed here, it would be on defenders of a state's right to exclude to provide evidence that the current meaning and functioning of nationality do in fact leave behind the category's colonial legacy. Defenders would need to address, for example, El-Enany's contrary evidence that current nationality and citizenship policies *continue to serve* political projects aimed at protecting unjust historical gains for a limited group of people. Her explanation makes sense of the evidence of racial discrimination in present immigration restrictions of liberal-democratic countries—sometimes blatant, but often more indirect—which I mentioned in the introduction (Achieme 2022; Fine 2016, 131–3). Notably, an attempt to address the colonial legacy of our political communities simply by changing the meaning of our national identities is also inconsistent with liberal nationalism's own understanding of nations as historical communities.¹⁵ Recognizing the colonial past as *our* past would require recognizing that many of the people seeking

¹⁴ With respect to US immigration law, Sherally Munshi (2015, 281–5) points out that while immigration from every country is subject to roughly the same numerical limit, this affects immigrants from different countries differently. For example, Denmark and India are subject to the same per country limit, even though India has more than two hundred times the population of Denmark and is home to some of the world's poorest populations.

¹⁵ Not to mention that it requires violently preventing people whose histories have been coercively "intertwined" with those of the colonizers (Amighetti and Nuti 2015, 9) from sharing the wealth created by colonial projects.

admission are already "political insiders," that is, members of a shared polity created by colonialism (Achieme 2019, 1549).

Unsettling the default authority of national borders and immigration controls

The discussed genealogies of nationality unsettle the default authority that we usually accord this category. I will conclude by making the normative force of attending to such genealogies more explicit.¹⁶ I understand genealogies here as "histories of the present" in Michel Foucault's sense (Foucault 1977, 31). They aim to give an account of the contingent ways in which our present practices, and the concepts, norms, and forms of reasoning that structure them, have come to be authoritative for us. Attending to these histories can distance us from norms that are embodied in the world we inhabit and that we usually follow habitually and unreflectively. Genealogies can do this, among other things, by providing a historicized conceptual analysis of central political concepts and ideas. By looking at how the category of "nationality" was used in modern nation-building projects, El-Enany, Mongia, and Sharma show how it is connected to practices of racial ordering. The idea of distinct, territorial nationalities allowed many nation-states to "effect racial exclusion without naming race" (Mongia 2018, 133).

Moreover, these historicized conceptual analyses contribute to what Foucault has called a "historical ontology of ourselves" (Foucault 1997, 315). The concepts and categories under scrutiny have a special significance for who we—the intended audience—are and can be. By showing how discursively articulated practices have shaped how we can act and who we can be, genealogies help us understand why we treat certain concerns, projects, and categories as authoritative. For many of us, our nationality is central to what rights and obligations we have, what resources are available to us, what projects we can pursue—in effect, to who we can be. El-Enany, Mongia, and Sharma demonstrate in different ways that many of the national political communities that now appeal to a principle of national self-determination were shaped through immigration and citizenship policies that excluded "undesirable," racialized outsiders. Who we are—as members of political communities—and who we see as belonging to our communities, is deeply entangled with the history of European colonialism and its practices of racial ordering.

The effects of telling genealogies are not limited to providing a better understanding of who or what we are. In addition, they can *transform* how we relate to our practices and, consequently, to who we are and can be (Menge 2017). Genealogists call on their audiences to take responsibility for norms that structure their world. The world

¹⁶ In this section, I draw on discussions in Menge (2017) and Menge (2022).

we inhabit is always normatively contoured, but when we are comfortably navigating the world in our activities, this may not be transparent to us. In this case, we unreflectively treat worldly demands as reasons for acting. We come to experience them as *demands* only when we fail to navigate the world smoothly, when we are, in Ahmed's terms, "disoriented." Since norms bind us only if we recognize their authority, this experience changes our relationship to the norms. We are now called upon to consider whether they make a legitimate claim or to otherwise reject them (Kukla 2002). As a result, our immediate, habitual involvement in normatively structured projects is suspended. Telling genealogies can thus have an uncanny effect: it can disrupt our immediate involvement in the world and the projects we are pursuing in it by making the norms that structure this world salient to us (Menge 2017, Karademir 2013, Kukla 2002). This disruption opens up a space for transformation, for relating differently to ourselves and others.

The studies by El-Enany, Mongia, and Sharma make salient that many of the current national political communities that appeal to a principle of national self-determination were created as racialized communities. Insofar as we identify as members of those political communities—even if it is just by using our passports—we may unwittingly participate in political projects whose legitimacy we should question. As Ahmed reminds us, such an inheritance can manifest in how our bodies habitually appear, move, and act within the world. We may be unaware of this inheritance and not recognize that states and political communities to which we belong continue to use the concept of nationality to maintain racialized hierarchies, because the world is arranged *for us* to have everything we need in reach. But what provides orientation for us makes others—people who are stateless, whose nationality is contested, or whose passports effectively immobilize them—"out of place." Ahmed enjoins us to pay attention to their experiences of disorientation, because through them, the worldly structures that make some of us "at home" and others "out of place" come into view.

One of those structures are state borders. National borders and immigration controls became a basic global institution because they preserved the racialized hierarchies of imperialism even as formal empires dissolved or transformed. Liberal accounts of the idea of "self-determination" often assume a more or less progressive history in which Enlightenment ideas of popular sovereignty were globally diffused and gradually realized, in particular in the context of the decolonization movements of the twentieth century (Getachew 2019, 26). But the "counter-histories" (Medina 2011) discussed in this paper remind us that sovereign control over the composition of a country's population has been deeply bound up with the imperialist project of dividing opportunities along racial lines. The idea of distinct, territorial nationalities allowed many newly

emerging nation-states, in particular the settler colonies and metropolises of European imperial states, to continue practices of racial ordering without using explicit racial categories (Mongia 2018, 133). Racial discrimination at the border is not an aberration from accepted legal and political norms; it is produced and sustained, in part, by legal categories of liberal-democratic societies (El-Enany 2020, 11). As a result, it is no surprise that immigration control is often formally excluded from domestic and international discrimination law.

National identities are not fixed facts about us; they are demands that we relate in specific ways to ourselves and others. Liberal nationalists are right to claim that such identities provide, for many of us, an orientation from which our world unfolds. But to say that I have a national identity is not a mere description of how I am situated in the world. It involves, in many cases, an implicit endorsement of the continuing global hierarchies that are a legacy of European colonialism. Genealogies can make this explicit and thereby call on us to take responsibility for who we are and who we will become. This means questioning the claims to legitimacy of many nation-states and understanding "unauthorized" migration as a resistance to an unjust social system.

Acknowledgements

I would like to thank the organizers and participants of the symposium *Confronting Discrimination: Phenomenological and Genealogical Perspectives* (Innsbruck, October 2021) for allowing me to present an earlier version of this paper and for valuable feedback. In addition, I'm grateful to Sergej Seitz, Michaela Bstieler, Andreas Oberprantacher, and two anonymous reviewers for *Genealogy & Critique* for their helpful remarks and suggestions.

References

- Abizadeh, Arash. 2008. "Democratic Theory and Border Coercion." *Political Theory* 36 (1): 37–65. DOI: <https://doi.org/10.1177/0090591707310090>.
- Achieme, E. Tendayi. 2019. "Migration as Decolonization." *Stanford Law Review* 71: 1509–74.
- Achieme, E. Tendayi. 2022. "Racial Borders." *The Georgetown Law Journal* 110 (3): 445–508.
- Amnesty International. 2022. "Poland/Belarus: New Evidence of Abuses Highlights 'hypocrisy' of Unequal Treatment of Asylum-Seekers." Accessed July 18, 2022. <https://www.amnesty.org/en/latest/news/2022/04/poland-belarus-new-evidence-of-abuses-highlights-hypocrisy-of-unequal-treatment-of-asylum-seekers/>.
- Appiah, Kwame A. 2020. "An Unscientific Postscript." In *Liberal Nationalism and Its Critics: Normative and Empirical Questions*, edited by Gina Gustavsson and David Miller, 269–77. Oxford: Oxford University Press. DOI: <https://doi.org/10.1093/oso/9780198842545.003.0015>.
- Atkinson, David C. 2016. *The Burden of White Supremacy: Containing Asian Migration in the British Empire and the United States*. Chapel Hill: University of North Carolina Press.
- Ahmed, Sara. 2006. *Queer Phenomenology*. Durham, NC: Duke University Press.
- Ahmed, Sara. 2007. "A Phenomenology of Whiteness." *Feminist Theory* 8 (2): 149–68. DOI: <https://doi.org/10.1177/1464700107078139>.
- Canovan, Margaret. 1996. *Nationhood and Political Theory*. Cheltenham: Edward Elgar Publishing.
- Cinnéide, Colm Ó. 2021. "Why Challenging Discrimination at Borders Is Challenging (and Often Futile)." *AJIL Unbound* 115 (12): 362–67. DOI: <https://doi.org/10.1017/aju.2021.53>.
- El-Enany, Nadine. 2020. *(B)ordering Britain: Law, Race and Empire*. Manchester: Manchester University Press.
- European Commission. 2022. "Information for People Fleeing the War in Ukraine." European Commission. Accessed April 22, 2022. https://ec.europa.eu/info/strategy/priorities-2019-2024/stronger-europe-world/eu-solidarity-ukraine/eu-assistance-ukraine/information-people-fleeing-war-ukraine_en.
- Fine, Sarah. 2013. "The Ethics of Immigration: Self-Determination and the Right to Exclude." *Philosophy Compass* 8 (3): 254–68. DOI: <https://doi.org/10.1111/phc3.12019>.
- Fine, Sarah. 2016. "Immigration and Discrimination." In *Migration in Political Theory: The Ethics of Movement and Membership*, edited by Sarah Fine and Lea Ypi, 125–50. Oxford: Oxford University Press. DOI: <https://doi.org/10.1093/acprof:oso/9780199676606.003.0007>.

- Gabbe, Bettina. 2022. "Flüchtlingsrat beklagt Ungleichbehandlung bei Ankommenden aus Ukraine." *MiGAZIN*, March 8, 2022. Accessed July 18, 2022. <https://www.migazin.de/2022/03/08/zwei-klassen-gesellschaft-fluechtlingsrat-ungleichbehandlung/>.
- Getachew, Adom. 2019. *Worldmaking after Empire: The Rise and Fall of Self-Determination*. Princeton University Press. DOI: <https://doi.org/10.1515/9780691184340>.
- Gilmore, Ruth Wilson. 2007. *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*. Berkeley, CA: University of California Press.
- İneli Cığır, Meltem. 2022. "5 Reasons Why: Understanding the Reasons behind the Activation of the Temporary Protection Directive in 2022." *EU Immigration and Asylum Law and Policy Blog*. March 7, 2022. Accessed July 18, 2022. <https://eumigrationlawblog.eu/5-reasons-why-understanding-the-reasons-behind-the-activation-of-the-temporary-protection-directive-in-2022/>.
- Jaggar, Alison M. 2020. "Decolonizing Anglo-American Political Philosophy: The Case of Migration Justice." *Aristotelian Society Supplementary Volume* 94 (1): 87–113. DOI: <https://doi.org/10.1093/arisup/akaa008>.
- Lance, Mark Norris, and Alessandra Tanesini. 2000. "Identity Judgements, Queer Politics." *Radical Philosophy* 100: 171–86. DOI: https://doi.org/10.1007/978-0-230-21162-9_14.
- Liboreiro, Jorge, and Shona Murray. 2022. "Brussels Will Apply a Never-Used EU Law to Host Ukrainian Refugees. How Does It Work?" *Euronews*, February 28, 2022. Accessed July 18, 2022. <https://www.euronews.com/my-europe/2022/02/28/brussels-will-apply-a-never-used-eu-law-to-host-ukrainian-refugees-how-does-it-work>.
- Margalit, Avishai and Joseph Raz. 1990. "National Self-Determination." *The Journal of Philosophy* 87 (9): 439–61. DOI: <https://doi.org/10.2307/2026968>.
- Mau, Steffen. 2023. *Sorting Machines: The Reinvention of the Border in the 21st Century*. London: Polity.
- Medina, José. 2011. "Toward a Foucaultian Epistemology of Resistance: Counter-Memory, Epistemic Friction, and Guerrilla Pluralism." *Foucault Studies* 12: 9–35. DOI: <https://doi.org/10.22439/fs.v0i12.3335>.
- Menge, Torsten. 2017. "The Uncanny Effect of Telling Genealogies." *Southwest Philosophy Review* 33 (1): 63–73. DOI: <https://doi.org/10.5840/swphilreview20173317>.
- Menge, Torsten. 2022. "Colonial Genealogies of National Self-Determination." *Journal of the American Philosophical Association*. Published ahead of print, August 17, 2022. DOI: <https://doi.org/10.1017/apa.2022.23>.
- Miller, David. 1995. *On Nationality*. New York: Oxford University Press.
- Miller, David. 2007. *National Responsibility and Global Justice*. New York: Oxford University Press. DOI: <https://doi.org/10.1093/acprof:oso/9780199235056.001.0001>.
- Miller, David. 2016. *Strangers in Our Midst: The Political Philosophy of Immigration*. Cambridge, MA: Harvard University Press. DOI: <https://doi.org/10.4159/9780674969827>.
- Munshi, Sherally. 2015. "Race, Geography, and Mobility." *Georgetown Immigration Law Journal* 30: 245–86.

- Mongia, Radhika. 2018. *Indian Migration and Empire: A Colonial Genealogy of the Modern State*. Durham, NC: Duke University Press. DOI: <https://doi.org/10.1515/9780822372110>.
- Moore, Margaret. 2001. *The Ethics of Nationalism*. Oxford: Oxford University Press.
- Sharma, Nandita. 2020. *Home Rule: National Sovereignty and the Separation of Natives and Migrants*. Durham, NC: Duke University Press. DOI: <https://doi.org/10.1515/9781478002451>.
- Song, Sarah. 2012. "The Boundary Problem in Democratic Theory: Why the Demos Should Be Bounded by the State." *International Theory* 4 (1): 39–68. DOI: <https://doi.org/10.1017/S1752971911000248>.
- Song, Sarah. 2019. *Immigration and Democracy*. New York: Oxford University Press. DOI: <https://doi.org/10.1093/oso/9780190909222.001.0001>.
- Tamir, Yael. 1993. *Liberal Nationalism*. Princeton: Princeton University Press. DOI: <https://doi.org/10.1515/9781400820849>.
- Ward, Katherine. 2020. "Standpoint Phenomenology." Ph.D. diss. Georgetown University. <https://www.proquest.com/dissertations-theses/standpoint-phenomenology/docview/2414419618/se-2>.
- Whelan, Frederick G. 1983. "Prologue: Democratic Theory and the Boundary Problem". *Nomos* 25: 13–47. <http://www.jstor.org/stable/24219358>.
- UN News. 2022. "UNHCR Chief Condemns 'Discrimination, Violence and Racism' against Some Fleeing Ukraine." March 21, 2022. Accessed July 18, 2022. <https://news.un.org/en/story/2022/03/1114282>.

